

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

JAMES RANDY SCHOONOVER,

Plaintiff,

v.

CIVIL ACTION NO: 2:19-386

CLAY COUNTY SHERIFF'S DEPARTMENT,
a division of the Clay County Commission;
CLAY COUNTY COMMISSION,
a political subdivision of Clay County, West Virginia;
MICHAEL PATRICK MORRIS, a deputy sheriff
of Clay County; and
JONATHAN HOLCOMB, a deputy sheriff
of Clay County,

Defendants.

COMPLAINT

1. The plaintiff, James Randy Schoonover, brings this action against the defendants, pursuant to 42 U.S.C. §1983, alleging violations of his constitutional rights. Specifically, the plaintiff alleges that his rights under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution and under Article III, Sections 1, 5, 6, and 10 of the West Virginia Constitution were violated by the defendants when the defendants used excessive and wrongful force and cruel and unusual punishment during the course of arresting the plaintiff on or about September 27, 2018.

PARTIES

2. The plaintiff, James Randy Schoonover, is a resident of Clay County, West Virginia, is 65 years old, and had his left arm amputated on May 16, 2004.

3. The defendant, Clay County Sheriff's Department, is a division of the Clay County Commission and was, at all times relevant herein the public employer for the defendant deputies and is located in Clay County, West Virginia.

4. The defendant, Clay County Commission, is a political subdivision of Clay County, West Virginia, and was, at all times relevant herein, the official entity responsible for the oversight of the Clay County Sheriff's Department and the oversight and employment of the defendant deputies.

5. The defendant, Michael Patrick Morris, was at all times relevant herein, employed by the Clay County Sheriff's Department and the Clay County Commission as a deputy sheriff, acting under the authority of a deputy sheriff of Clay County, and was at all times relevant herein acting under the color of the law and within the scope of his employment. The defendant, Michael Patrick Morris, is sued only in his individual capacity.

6. The defendant, Jonathan Holcomb, was at all times relevant herein, employed by the Clay County Sheriff's Department and the Clay County Commission as a deputy sheriff, acting under the authority of a deputy sheriff of Clay County, and was at all times relevant herein acting under the color of the law and within the scope of his employment. The defendant, Jonathan Holcomb, is sued only in his individual capacity.

FACTS

7. On or about the afternoon of September 27, 2018, the plaintiff was at his home in Hartland, West Virginia when he began experiencing chest pain.

8. The plaintiff then drove to approximately five miles to his son's property to see if his son could take him to the hospital in Charleston, West Virginia.

9. The plaintiff's son was not at home.

10. After unsuccessfully attempting to reach his son to drive him to the hospital, the plaintiff drove his vehicle to his brothers' house in an attempt to contact his brother and ask him to drive the plaintiff to the hospital in Charleston.

11. The plaintiff's brother lives approximately two miles from the plaintiff's brother's home.

12. After arriving at his brother's house, the plaintiff got out of his vehicle and started walking toward the front door of his brother's house.

13. While doing so, Deputy Morris pulled into the plaintiff's brother's driveway.

14. The plaintiff then stopped and looked at Deputy Morris, and Deputy Morris then turned on the police lights on his vehicle.

15. The plaintiff then asked Deputy Morris why he was there.

16. At this point, Deputy Morris demanded the plaintiff's license and registration.

17. The plaintiff asked Deputy Morris why he needed it.

18. Deputy Morris then again demanded that the plaintiff give him his license and registration without explaining why he wanted it.

19. The plaintiff then informed Deputy Morris that he did not have the requested information.

20. The plaintiff then told Deputy Morris that he was experiencing chest pains and needed an aspirin.

21. Deputy Morris told the plaintiff he could not get an aspirin right now.

22. Deputy Morris said he needed to “figure out what’s going on here.”

23. The plaintiff then asked Deputy Morris “about what?”

24. Then, the plaintiff’s sister-in-law asked Deputy Morris if she could give the plaintiff an aspirin, and Deputy Morris said that was fine.

25. The plaintiff then went inside his brother’s home and took an aspirin before calling Magistrate Boggs to ask him to stay after 4:00 p.m. in the event the plaintiff would be brought in front of him.

26. When the plaintiff returned outside, Deputy Morris asked the plaintiff who he was talking to.

27. The plaintiff told Deputy Morris he was talking to Magistrate Boggs.

28. Then, Deputy Morris told the plaintiff that he would have to arrest him because he called Magistrate Boggs.

29. By this time, Deputy Holcomb and the plaintiff’s brother had arrived.

30. Deputy Morris told the plaintiff’s brother that he had to arrest the plaintiff because the plaintiff called Magistrate Boggs.

31. After Deputy Morris told the plaintiff he would have to arrest him because he called Magistrate Boggs, Deputy Holcomb took the plaintiff’s right wrist and handcuffed it to the plaintiff’s right ankle.

32. Deputy Holcomb then placed the plaintiff in the back of Deputy Morris's vehicle with his right wrist still handcuffed to his right ankle.

33. The defendants did not read the plaintiff his Miranda rights.

34. The defendants did not inform the plaintiff why he was being detained or why he was being arrested.

35. The defendants did not inform the plaintiff of what he was being charged with.

36. While being placed in the back of Deputy Morris's vehicle, the plaintiff asked his brother for an aspirin.

37. When the plaintiff asked his brother for an aspirin, Deputy Holcomb told the plaintiff, "shut your mouth, old man, or I'll shut it for you."

38. Deputy Holcomb then raised his arm as if he was getting ready to strike the plaintiff.

39. Deputy Morris then drove the plaintiff to the courthouse.

40. Once they arrived at the courthouse, Deputy Holcomb took the plaintiff out of Deputy Morris's vehicle.

41. While taking the plaintiff into the courthouse, Deputy Holcomb told a group of young men standing outside, "you see this criminal here? Be good or you'll end up here."

42. Deputy Holcomb and Deputy Morris told their supervisor, Robert Belt, that they should have made the plaintiff "quack like Donald Duck" while they had him handcuffed on his right wrist to his right ankle.

43. Plaintiff suffered physical injuries to his back, ankle, and wrist as a result of the actions of Deputy Holcomb and Deputy Morris.

44. No reasonable police officer in Deputy Holcomb or Deputy Morris's positions could have believed that it was reasonable to handcuff the plaintiff's wrist to his ankle, given the nature of the incident, the plaintiff's non-violent conduct, the plaintiff's disabling condition, the plaintiff's age, and the lack of any threat to the safety of the deputy or members of the public.

FIRST CAUSE OF ACTION

(42 U.S.C. §1983 – Excessive Force)

46. The defendants, while acting under the color of law, violated the plaintiff's constitutional rights.

49. The actions of the defendants violated the constitutional rights guaranteed to the plaintiff under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.

50. The actions of the defendants were not taken in good faith and were in violation of clearly established law.

51. The defendants violated the plaintiff's constitutional rights, as described and identified herein, by using excessive force and wrongful force during the course of arresting the plaintiff on or about September 27, 2018 when they unnecessarily handcuffed the plaintiff's wrist to his ankle.

52. When the defendants used excessive force against the plaintiff, no objectively reasonable police officer could have perceived the force as necessary.

53. As a direct and proximate result of the defendants' unconstitutional actions, the plaintiff seeks to recover damages in an amount to be determined by the jury to compensate him for:

- A. Physical pain and suffering, past and future;
- B. Mental pain and suffering, past and future;
- C. Injuries resulting from the defendants' conduct;
- D. Indignity, embarrassment, humiliation, annoyance, inconvenience, and degradation; and

- E. All other injuries proven by a preponderance of the evidence proximately caused by the defendants.

54. In addition to these compensatory damages, the plaintiff also seeks to recover, under 42 U.S.C. §1988 the attorney fees and costs incurred during the course of this litigation.

55. In an effort to prevent other similarly situated individuals from suffering the same violation of their constitutional rights, the plaintiff further seeks to have the Court order the defendants to undergo additional training and education addressing the defendants' use of excessive and wrongful force, the development of policies to preclude such actions in the future, and the implementation of discipline against the defendants to hold them accountable for their wrongful actions.

56. The defendants' actions were reprehensible, willful, wanton, malicious, and/or undertaken with blatant and intentional disregard of the rights owed to the plaintiff, thereby entitling the plaintiff to punitive damages in an amount to be determined by the jury.

SECOND CAUSE OF ACTION

(42 U.S.C. §1983 –Cruel and Unusual Punishment)

57. The defendants, while acting under the color of law, violated the plaintiff's constitutional rights.

58. The actions of the defendants violated the constitutional rights guaranteed to the plaintiff under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.

59. The actions of the defendants were not taken in good faith and were in violation of clearly established law.

60. The defendants violated the plaintiff's constitutional rights, as described and identified herein, by applying cruel and unusual punishment to the plaintiff on or about September 27, 2018 when they handcuffed the plaintiff's wrist to his ankle.

61. As a direct and proximate result of the defendants' unconstitutional actions, the plaintiff seeks to recover damages in an amount to be determined by the jury to compensate him for:

- A. Physical pain and suffering, past and future;
- B. Mental pain and suffering, past and future;
- C. Injuries resulting from the defendants' conduct;
- D. Indignity, embarrassment, humiliation, annoyance, inconvenience, and degradation; and
- E. All other injuries proven by a preponderance of the evidence proximately caused by the defendants.

63. In addition to these compensatory damages, the plaintiff also seeks to recover, under 42 U.S.C. §1988 the attorney fees and costs incurred during the course of this litigation.

64. In an effort to prevent other similarly situated individuals from suffering the same violation of their constitutional rights, the plaintiff further seeks to have the Court order the defendants to undergo additional training and education addressing the defendants' use of excessive and wrongful force, the development of policies to preclude such actions in the future, and the implementation of discipline against the defendants to hold them accountable for their wrongful actions.

65. The defendants' actions were reprehensible, willful, wanton, malicious, and/or undertaken with blatant and intentional disregard of the rights owed to the plaintiff, thereby entitling the plaintiff to punitive damages in an amount to be determined by the jury.

THIRD CAUSE OF ACTION

(State Constitutional Violations)

66. This cause of action alleges a constitutional tort action under the West Virginia Constitution, pursuant to the common law of West Virginia, and specifically is not filed pursuant to 42 U.S.C. §1983 or any other federal statute.

67. The actions of the defendants violated the constitutional rights guaranteed to the plaintiff under Article III, Sections 1, 5, 6, and 10 of the West Virginia Constitution.

68. The actions of the defendants also violated the constitutional rights guaranteed to the plaintiff under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.

69. The actions of the defendants were not taken in good faith and were in violation of clearly established law.

70. The defendants violated the plaintiff's constitutional rights, as described and identified herein, when the defendants used excessive force and wrongful force during the course of arresting the plaintiff and when the defendants unlawfully arrested the plaintiff on or about September 27, 2018.

71. The defendants Clay County Sheriff's Department and Clay County Commission are vicariously liable for the acts of the defendants Holcomb and Morris committed within the scope of their employment.

72. As a direct and proximate result of the defendants' unconstitutional actions, the plaintiff seeks to recover damages in an amount to be determined by the jury to compensate him for:

- A. Physical pain and suffering, past and future;
- B. Mental pain and suffering, past and future;
- C. Injuries resulting from the defendants' conduct;
- D. Indignity, embarrassment, humiliation, annoyance, inconvenience, and degradation; and
- E. All other injuries proven by a preponderance of the evidence proximately caused by the defendants.

73. In an effort to prevent other similarly situated individuals from suffering the same violation of their constitutional rights, the plaintiff further seeks to have the Court order the defendants to undergo additional training and education addressing the defendants' use of excessive and wrongful force, the development of policies to preclude

such actions in the future, and the implementation of discipline against the defendants to hold them accountable for their wrongful actions.

74. The defendants' actions were reprehensible, willful, wanton, malicious, and/or undertaken with blatant and intentional disregard of the rights owed to the plaintiff, thereby entitling the plaintiff to punitive damages in an amount to be determined by the jury.

FOURTH CAUSE OF ACTION

(Negligence)

75. The defendants were negligent in the performance of their duties within the scope of their employment and such negligence was the proximate cause of the plaintiff's injuries.

76. As a direct and proximate result of the defendants' negligence, the plaintiff seeks to recover damages in an amount to be determined by the jury to compensate him for:

- A. Physical pain and suffering, past and future;
- B. Mental pain and suffering, past and future;
- C. Injuries resulting from the defendants' conduct;
- D. Indignity, embarrassment, humiliation, annoyance, inconvenience, and degradation; and
- E. All other injuries proven by a preponderance of the evidence proximately caused by the defendants.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff, James Randy Schoonover, prays for the following relief:

1. Damages set forth in his Complaint, including punitive damages in an amount to be determined by the jury;
2. Pre-judgment interest as provided by law;
3. Attorney fees and costs; and
4. Such further relief as this Court may deem just and equitable.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES TRIABLE TO A JURY.

JAMES RANDY SCHOONOVER
By Counsel

/s/ John-Mark Atkinson
Mark A. Atkinson (WVSB #184)
John-Mark Atkinson (WVSB #12014)
ATKINSON & POLAK, PLLC
P.O Box 549
Charleston, WV 25322-0549
(304) 346-5100
emboles@amplaw.com
johnmark@amplaw.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JAMES RANDY SCHOONOVER

(b) County of Residence of First Listed Plaintiff **CLAY**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark A. Atkinson and John-Mark Atkinson, Atkinson & Polak, PLLC
P.O. Box 549, Charleston, WV 25322-0549
304-346-5100

DEFENDANTS

CLAY CO. SHERIFF'S DEPT. AND COMMISSION, MICHAEL PATRICK MORRIS, AND JONATHAN HOLCOMB

County of Residence of First Listed Defendant **CLAY**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 424 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
			LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §1983

Brief description of cause:

Excessive Force, Cruel and Unusual Punishment, and Negligence

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/15/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Southern District of West Virginia

JAMES RANDY SCHOONOVER

Plaintiff(s)

V.

CLAY COUNTY SHERIFF'S DEPARTMENT, a
division of the Clay County Commission, et al.

Defendant(s)

Civil Action No. 2:19-386

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) CLAY COUNTY SHERIFF'S DEPARTMENT
246 Main Street
Clay, WV 25043

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mark A. Atkinson

Mark A. Atkinson
John-Mark Atkinson
ATKINSON & POLAK, PLLC
P.O. Box 549
Charleston, West Virginia 25322-0549

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 05/16/2019

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-386

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia

JAMES RANDY SCHOONOVER

Plaintiff(s)

v.

CLAY COUNTY SHERIFF'S DEPARTMENT, a
division of the Clay County Commission, et al.

Defendant(s)

Civil Action No. 2:19-386

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CLAY COUNTY COMMISSION
246 Main Street
Clay, WV 25043

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark A. Atkinson
John-Mark Atkinson
ATKINSON & POLAK, PLLC
P.O. Box 549
Charleston, West Virginia 25322-0549

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 05/16/2019

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-386

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia

JAMES RANDY SCHOONOVER

Plaintiff(s)

V.

CLAY COUNTY SHERIFF'S DEPARTMENT, a
division of the Clay County Commission, et al.

Defendant(s)

Civil Action No. 2:19-386

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* **MICHAEL PATRICK MORRIS**
246 Main Street
Clay, WV 25043

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Mark A. Atkinson

Mark A. Atkinson
John-Mark Atkinson
ATKINSON & POLAK, PLLC
P.O. Box 549
Charleston, West Virginia 25322-0549

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 05/16/2019

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-386

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Civil Action No. 2:19-386

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: